("Kanarian") and Naya et al., U.S. Patent No. 6,344,367 ("Naya '367") or Naya et al., U.S. Patent No.; 6,497,996 ("Naya '996").

•Claims 3, 4, 7-11, and 21 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Miyawaki or Byer, in view of Kanarian, Harada et al., U.S. Patent No. 5,566,308 ("Harada"), and Naya '367 or Naya '996.

•Claims 3, 4, 7, 8, 11, 12, and 19-21 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Miyawaki or Byer, in view of Kanarian, Harada, Taguchi et al., JP 4-335620 ("Taguchi"), Yamanouchi et al., U.S. Patent No. 6,198,197 ("Yamanouchi"), and Naya '367 or Naya '996.

Perfecting Priority

Without commenting on the substantive merits of the Examiner's rejection, Applicants are hereby traversing the above-noted rejections of claims 3, 4, 7-12, and 19-21 by perfecting their claim to foreign priority.

As a preliminary matter, Applicants note that the Naya '367 patent to was filed on July 10, 2000, and that the Naya '996 patent was filed on May 1, 2000, both of which are after the August 27, 1999 and October 15, 1999 filing dates of the priority documents JP 241062 and JP 293802, respectively. Thus, Applicants submit herewith certified English translations of the priority documents to perfect Applicant's claim to foreign priority. Therefore, Applicant notes that the Naya '367 patent and the Naya '996 patents are no longer available as prior art under 35 U.S.C. § 102, and hereby request that the Examiner reconsider and withdraw the above rejections.

Non-Statutory Double Patenting Rejection

Claims 4, 7-10, 19, and 21 stand rejected under the judicially-created doctrine of obviousness double patenting over Claims 1-40 of Naya '367, in view of Miyawaki or Byer and Kanarian.

Without commenting on the substantive merits of the Examiner's rejection, but instead to expedite prosecution of the present Application, Applicants are submitting herewith a terminal disclaimer to obviate the above-noted obviousness-type double patenting rejection.

As noted in *Quad Environmental Technologies*, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting and raises neither presumption nor estoppel on the merits of the rejection. It is improper to convert this simple expedient of "obviation" into an admission or acquiescence or estoppel on the merits.[1]

Applicants therefore respectfully request that the rejection of Claims 4, 7-10, 19, and 21 be reconsidered and withdrawn.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

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[1] *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ.2d 1392, 1394, 1395 (Fed. Cir. 1991).

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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